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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,351	07/27/2001	Toshiyuki Murata	107156-00073	7210

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ARENT FOX KINTNER PLOTKIN & KAHN, PLLC
Suite 600
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5339

EXAMINER

CHAU, COREY P

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 07/09/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/915,351

Applicant(s)

MURATA ET AL.

Examiner

Corey P Chau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 2, and 3 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6704421 to Kitamura.

3. Regarding Claim 1, Kitamura discloses an automatic multichannel equalization control system for a multimedia computer (i.e. an audio reproducing apparatus) comprising an audio reproducing device for reproducing audio information (Fig. 1); discriminating device (14) for discriminating sound stream contained in the audio information (i.e. the disc reader 14 is a conventional disc reader that reads header information as preprogrammed on a CD, DVD or other disc) (Fig. 2; column 3, lines 36-39; column 5, lines 4-16); storing device (38) for storing frequency character information

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set corresponding to the sound stream (abstract; Fig. 2; column 4, line 35 to column 5, line 3; column 7, lines 41-57); renewing device (28) for variably adjusting the frequency character information in accordance with the sound stream discriminated by the discriminating device (i.e. the equalization template block 28 stores multichannel equalizer control values as adjusted (entered) by a user to provide user selectability based on user preferences)(Fig. 2; column 3, line 65 to column 4, line 34; column 8, lines 54); and control device (16) for performing a control so that the renewing device can be variably adjusted in accordance with the frequency character information corresponding to the sound stream discriminated by the discriminating device, and that the audio reproducing device can output the audio information (column 4, lines 13-21; column 5, lines 31-40; column 6, line 64 to column 7, line 18; column 9, lines 5-16).

4. Regarding Claim 2, Kitamura discloses character storing device for storing a plurality of frequency character information (38); and selecting device (34,42) for selecting a sound field corresponding to frequency character information stored in the character storing device; wherein the control device is provided such that a sound field selected by the selecting device is stored in the character storing device, corresponding to a sound stream (Figs. 1 and 2; column 4, lines 22-46; column 7, lines 33-40).

5. Regarding Claim 3, Kitamura discloses the discriminating device is provided to discriminate, as a sound stream, one or more of audio coding mode, quantization, sampling frequency and the number of audio channels (i.e. header data indicates the number of audio channels and header data indicates the format in which the audio is recorded) (column 8, lines 4-42).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6704421 to Kitamura.

8. Regarding Claim 4, Kitamura discloses the discriminating device evaluates a header data indicating the type of format the audio is recorded in to, determine whether the audio is in two channel stereo, in AC-3 format, MPEG-2 format, HDCD format, or other format. Based on the header data, only parameters, which are relevant to a user, are stored and can be modified. For example, if a disc is an audio CD, recorded in two channels stereo, the user will not be allowed to modify all six multichannels but instead will only be allowed to modify two stereo channels (column 7, lines 33-40; column 8, lines 4-41). Kitamura does not expressly disclose the discriminating device is adapted to effect an On/Off control of speakers, in accordance with an attribute of an audio stream. However it would have been obvious to one having ordinary skill in the art at the time the invention was made that the discriminating device is adapted to effect an On/Off control of speakers, in accordance with an attribute of an audio stream since modification is only made to channels that are recorded on a disc, therefore only those channels should be use to playback the audio signal.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corey P Chau whose telephone number is (703)305-0683. The examiner can normally be reached on Monday - Friday 9:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W Isen can be reached on (703)305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 28, 2004


FORESTER W. ISEN
SUPERVISORY PATENT EXAMINER